



## CITY OF LODI

## COUNCIL COMMUNICATION

**AGENDA TITLE:** Request to Join in Amicus Brief in the case of Valley Outdoor v. County of Riverside, Ninth Circuit Court of Appeals.

**MEETING DATE:** July 3, 2002

**PREPARED BY:** Randall A. Hays, City Attorney

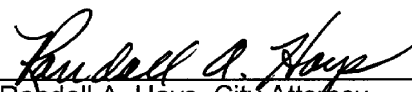
**RECOMMENDATION:** That the City join the Amicus Brief in the case of Valley Outdoor v. County of Riverside, Ninth Circuit Court of Appeals.

**BACKGROUND:** Amicus Briefs are filed in various actions, which involves matters of wide-ranging concern to provide information and additional argument to the Court in order to assist the Court in understanding all of the issues and arrive at a conclusion.

This case involves an ambush by a billboard manufacturer. Valley Outdoor, knowing that they had never applied for the required local permits, late on a Friday afternoon sent a construction company to the site they wished to build a billboard. This particular site was not appropriately zoned for billboard installation. The construction company began work over the weekend and completed the structural building of the billboard before Riverside County could get into court to request a temporary restraining order. The County did file a suit in state court seeking a temporary restraining order, the object being to abate the illegally built billboard. The billboard company's reaction was to file a suit in federal court seeking a declaration that Riverside County's sign ordinance was unconstitutional and unenforceable and claiming a vested right to a nonconforming use. The County has prevailed both in its state court action and in the federal trial court action. The billboard company has appealed both the state and federal court decisions that have been rendered against them. At this point, the League is requesting amicus participation in the federal action which is scheduled before the Ninth Circuit Court of Appeals later this year. Clearly if Riverside County is not successful before the Ninth Circuit, this billboard ambush scenario likely will reoccur in city after city. Billboard companies will erect more signs in open defiance of local zoning laws and then bring expensive risky constitutional litigation against every resisting city. The policy decisions of elected law makers could be trumped by the private veto of billboard companies.

Funding: Not applicable.

Respectfully submitted,

  
Randall A. Hays, City Attorney

APPROVED: \_\_\_\_\_

  
H. Dixon Flynn -- City Manager